

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

UNITED STATES OF AMERICA	)	CR No.: 3:09-501-JFA
	)	
v.	)	ORDER
	)	
MARLON JERMAINE DICKERSON	)	
	)	
_____	)	

This matter is before the court upon defendant's motion for a reduction of sentence (ECF No. 1554) filed pursuant to 18 U.S.C. § 3582. The motion is based on Amendment 750 to the United States Sentencing Guidelines regarding crack cocaine offenses.

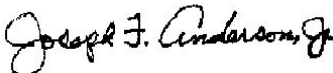
The government has responded in opposition to the motion noting that the Presentence Report in Dickerson's case was already based upon a 1 to 1 crack to cocaine ratio. Dickerson pled guilty to a drug conspiracy involving 500 grams or more of cocaine and 5 grams or more of cocaine base, a violation of 21 U.S.C. § 841(b)(1)(B). Based upon his two prior drug felony convictions (which he stipulated to in his plea agreement), the defendant was subject to a mandatory minimum sentence of 120 months which the court imposed. Thus, the defendant cannot avail himself of the new Amendment.

In addition, the court agrees with the government that defendant's reliance on United States v. Simmons, 649 F.3d 237 (4th Cir. 2011), is misplaced and is not applicable to the defendant's case.

Accordingly, the defendant's motion for a reduction of his sentence (ECF No. 1554) is denied and the defendant's motion for appointment of counsel (ECF No. 1555) is moot.

IT IS SO ORDERED.

November 7, 2011  
Columbia, South Carolina

  
Joseph F. Anderson, Jr.  
United States District Judge